

PROTECTED HEALTH

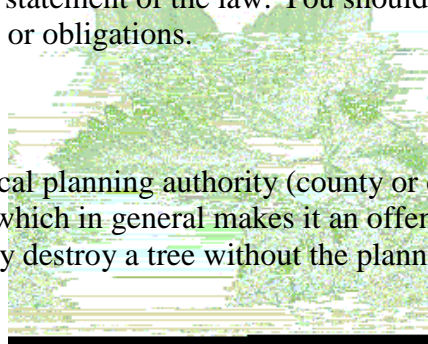


Welsh Assembly Government

Local planning authorities have specific powers to protect trees by making tree preservation orders, although the Forestry Commission is responsible for the control of felling of woodland trees (see question 11).

Special provisions also apply to trees within conservation areas designated by local planning authorities.

This leaflet is written for the benefit of tree owners, the general public and amenity groups and answers some of the most common questions about tree preservation procedures. It is for guidance only and is not a statement of the law. You should consult a solicitor if you are unsure of your legal rights or obligations.



It is an order made by a local planning authority (county or county borough council and national park authorities) which in general makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without the planning authority's permission.

To protect trees which make a significant impact on their local surroundings. This is particularly important where trees are in immediate danger.

All types, including hedgerow trees, but not hedges, bushes or shrubs. The order can cover anything from a single tree to woodlands.

Details of orders are available for inspection at the local planning authority's offices. An official search of the local land charges register can also be made before you purchase a



Whether or not a tree preservation order is in force you must first apply to the Forestry Commission for a felling licence if you want to cut down trees containing more than five cubic metres of wood - as long as no more than two cubic metres of any exempt amount are sold - in any calendar quarter. There are exceptions to this rule which are set out in the Forestry



Except in an emergency you are advised to give your local planning authority at least five days' notice before you cut down a protected tree which is dying, dead or dangerous. This is in your interests - you could be prosecuted if the authority thinks you have carried out unauthorised work. It could also decide that you do not have to plant a replacement tree. You must remember, however, that you will remain responsible for your trees and any damage they may cause.

You will have to replant:

- if you cut down or destroy a protected tree:
 - in breach of an order, or
 - except in the case of woodland, because the tree is dying, dead or dangerous, unless the planning authority says you need not;
- if the planning authority gives you permission to cut down a protected tree but makes replanting a condition of its consent;
- in most cases where the Forestry Commission grants a felling licence.

Local planning authorities have legal powers to ensure that you plant a replacement tree when required.

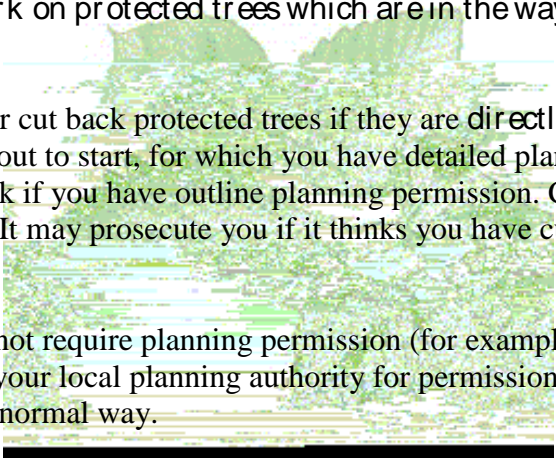
If you deliberately destroy a tree, or damage it in a manner likely to destroy it, you could be fined up to £20,000 if convicted in the magistrates' court. In determining the amount of the fine, the court will take account of any financial benefit arising from the offence. For other offences you could be fined up to £2,500. You will normally have to plant a replacement tree if the tree was cut down or destroyed.

You can appeal to The National Assembly for Wales in writing within 28 days of receiving the decision. Appeals are dealt with by the Planning Inspectorate, at the same address as

If consent is refused - or granted with conditions - you can seek compensation from your local planning authority for any loss or damage which results. If the tree preservation order was made after 2 August 1999, the claim must be for £500 or more. However you cannot make a claim where, under the terms of the order, the planning authority has issued a



Trees on development sites can be protected by tree preservation orders or by conditions attached to the planning permission, or both. Planning conditions may also require you to plant trees which may be covered by a tree preservation order. The order will take effect once they are planted.

You can only cut down or cut back protected trees if they are  in the way of development which is about to start, for which you have detailed planning permission. You cannot carry out tree work if you have outline planning permission. Check first with your local planning authority. It may prosecute you if it thinks you have cut down or cut back excessively.

If the development does not require planning permission (for example, putting up a garden shed) you must apply to your local planning authority for permission under the tree preservation order in the normal way.

No. A tree preservation order does not prevent planning permission being granted. But a local planning authority will consider the risk to protected trees when deciding planning applications.

Once detailed planning permission is granted, any felling may be carried out which is directly required to enable the development to go ahead.

You can find out more about tree preservation orders in the following:

- Town and Country Planning Act 1990 (in particular sections 197-214 as amended)
- The Planning and Compensation Act 1991 (section 23)
- Forestry Act 1967 (as amended)
- The Town and Country Planning (Trees) Regulations 1999 (Statutory Instrument number 1892)
- Planning Guidance (Wales) Technical Advice Notes (Wales) 10 - Tree Preservation Orders.

These are all available through The Stationery Office and some may be seen at main libraries or on the websites at

